

**CALLED MEETING
APRIL 26, 2000**

The Ashland Board of Commissioners met in Called Session in the Commissioners=Chambers, City Building, Ashland, Kentucky, on Wednesday, April 26, 2000, at the hour of 5:30 PM. Those present were Commissioners: Nancy Dickinson, Kevin Gunderson, Michael Stewart and Mayor A. R. Dunnigan, who presided. Absent: Commissioner Paul Reeves. Also present were: William H. Fisher, Jr., City Manager; Richard W. Martin, Corporation Counsel; Deborah D. Musser, City Clerk; Tom Kelley, Chief of Police, and Reporters.

EXECUTIVE SESSION

Motion was made by Gunderson, seconded by Stewart, to go into Executive Session at the request of Lt. Jack L. King. Upon roll call, voting aye were Commissioners Dickinson, Gunderson, Stewart and Mayor Dunnigan. Nay – none. Motion passed.

CALL LETTER WAS READ AS FOLLOWS

April 24, 2000

DELIVERED BY: DATE: TIME:

TO:

Nancy Dickinson, City Commissioner	T. Wallin	4/24/00	1430
Kevin Gunderson, City Commissioner	T. Wallin	4/24/00	1430
Paul Reeves, City Commissioner	T. Wallin	4/24/00	1500
Michael Stewart, City Commissioner	T. Kelley	4/24/00	1930
William H. Fisher, Jr., City Manager	T. Kelley	4-24	1:30
Richard W. Martin, Corporation Counsel	R. Ratliff	4/24/00	2:25
Deborah D. Musser, City Clerk	T. Kelley	4-24	1:30
Lt. Jack L. King, APD	R. Ratliff	4/24/00	2:47

FROM: A.R. Dunnigan, Mayor

Commissioners:

This is to advise that I hereby call a special meeting of the Board of Commissioners of the City of Ashland, Kentucky to be held in the Commissioners' Chambers, City Building, 1700 Greenup Avenue, Ashland, Kentucky:

DATE: Wednesday, April 26, 2000

TIME: 5:30 PM

PURPOSE: To conduct a hearing pursuant to the provisions KRS 95.450 and Ashland Police Department General Order A-1, § 1.3(A) and § 1.4 (A6) and Ashland Police Rules, Article 3, § 3.8, on charges preferred against Jack L. King, Ashland Police Lieutenant.

Very truly yours,

/s/A. R. Dunnigan
Mayor

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CALLED MEETING APRIL 26, 2000
CALL LETTER CONTINUED

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Nancy Dickinson, Kevin Gunderson, Paul Reeves and Michael Stewart,
City Commissioners
William H. Fisher, Jr., City Manager
Richard W. Martin, Corporation Counsel
Deborah D. Musser, City Clerk
Lt. Jack L. King, APD

* * * * *

Executed by delivering a true copy of the foregoing letter to each of the persons named in the caption thereof.

/s/Thomas E. Kelley
Signature and rank of officer in charge
of execution of this letter

The appropriately executed original of this letter shall be filed in the Office of the City Clerk of the City of Ashland, Kentucky.

True copies of the foregoing notice of special meeting have been served by mail upon the media sources shown on the list attached to the executed copy of this letter.

cc: THE DAILY INDEPENDENT, 226 17TH STREET, ASHLAND, KY 41101
THE HERALD DISPATCH, DAVE MALLOY, P.O. BOX 187, IRONTON, OH 45638
THE COURIER JOURNAL, STATE EDITOR, 525 W. BROADWAY, LOUISVILLE, KY 40402
WRVC/WTMZ, NEWS DIRECTOR, 401 11TH STREET, HUNTINGTON, WV 25701
WKEE-WHTN/ASHLAND-IRONTON, BILL CORNWELL, P.O. BOX 2288, HUNTINGTON, WV 25724
WTCR, NEWS DIRECTOR, RADIO PARK ROAD, CATLETTSBURG, KY 41129
WNST, NEWS DIRECTOR, P.O. BOX 445, HURRICANE, WV 25526-0445
WCMI, NEWS DIRECTOR, P.O. BOX 949, ASHLAND, KY 41105-0949
WMKY RADIO, TOM LEWIS-NEWS/PUBLIC AFFAIRS, UPO 903 - MOREHEAD STATE UNIV., MOREHEAD, KY 40351-1689
WSAZ TV, ATTN: NEWS DIRECTOR, P.O. BOX 2115, HUNTINGTON, WV 25721
WIRO NEWS DEPARTMENT, P.O. BOX 309, RADIO PLAZA, IRONTON, OH 45638-0309
WOWK TV, ASSIGNMENT EDITOR, P.O. BOX 13, HUNTINGTON, WV 25706
WPAY RADIO, ATTENTION: MISTIE COOK, 1009 GALLIA STREET, PORTSMOUTH, KY 45662-9998
BRIAN FOWLER, MAGIC 101 RADIO, 117 PORTSMOUTH ROAD, GALLOPOLIS, OH 45631
MOUNTAIN NEWS NETWORKS, ATTENTION: KIMBERY BEARY, 3100 BATH AVENUE, ASHLAND, KY 41101

VOTE - CALL LETTER

Motion was made by Stewart, seconded by Gunderson, to receive, file and record the call letter. Upon roll call, voting aye were Commissioners Dickinson, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

STATEMENT BY MAYOR

Mayor Dunnigan read the following statement:

CALLED MEETING APRIL 26, 2000
STATEMENT BY MAYOR CONTINUED

Obviously, this is not our ordinary type of meeting, but we are required by Kentucky Revised Statutes under KRS 95.450 to hear any disciplinary matter brought against a member of our police or fire department. No member of these departments may be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of rules adopted by this body without charges being preferred and a hearing conducted by this body. KRS 15.520 also sets out certain due process rights for police officers of cities in the Commonwealth. The City Manager after reviewing the results of an internal investigation conducted by the police department on February 21, 2000 filed the charges before you with the Clerk as required by the statute. Thereafter, the parties agreed to hold the hearing before this body on today's date.

It is, therefore, our statutory responsibility to conduct this hearing and to render a decision. Speaking for this Board, I am sure that all members have entered these Chambers without any preconceived idea as to what the outcome will be. We will make every effort to hold a fair and impartial hearing and render a just decision based upon the evidence that we hear.

This is an administrative hearing as distinguished from a judicial proceeding and it will be less formal. I am not a lawyer and will not attempt to make rulings as to evidentiary matters. However, as the presiding officer, I intend to conduct this proceeding in an orderly manner and I am certain that all participants will cooperate. I ask the parties to be reasonable as to what is relevant and material to our consideration. Any objections will be noted for the record.

The format of the proceeding will be as follows:

1. Statement by corporation counsel.
2. Statement by Lt. King or his counsel.
3. Proof offered by Mr. Martin.
4. Proof offered by Lt. King.
5. Rebuttal proof, if any, by Mr. Martin.
6. Arguments of counsel/Lt. King.
7. Deliberation by the Board.

CHARGES:

Corporation Counsel Martin read the following charges:

To: Debbie Musser

From: William H. Fisher, Jr.
City Manager

In re: Lt. Jack L. King
Charges of misconduct
Pursuant to *KRS 95.450*

* * * * *

Be advised that I have reviewed an investigation conducted by the Police Department regarding the conduct on Lt. Jack L. King in preparing and delivering to members of the Board of Commissioners a memorandum dated October 1, 1999 relating to the potential promotion of Captain Tom Kelley to the position of Police Chief.

CALLED MEETING APRIL 26, 2000
CHARGES CONTINUED

Lt. King delivered his memorandum along with a referenced city ordinance to members of the Board with material prepared by the City Manager for the regularly scheduled Board meeting for October 7th. This material had been assigned to him for delivery to the Board members by his supervisor. Lt. King, after placing his memorandum and the related ordinance with the materials, instructed a subordinate officer to make such delivery. A copy of the letter with ordinance are attached hereto and marked Exhibit "A" for identification.

It is the opinion of Lt. King's then immediate supervisor that Lt. King's above-described conduct was in violation of Police Department General Order A-1, § 1.3(A) and § 1.4(A6). It is further believed that such conduct constitutes a violation of Police Department Administrative Rules, Article 3, § 3.8. Copies of the order and applicable departmental rules are attached hereto and marked Exhibits "B" and "C" respectively.

I am, therefore, preferring the charge that Lt. King's conduct did, in fact, violate the above-cited Rules and Orders of the Ashland Police Department and ask that the Ashland Board of City Commissioners schedule a hearing that these charges may be brought before it pursuant to the provisions of *KRS 95.450*.

I ask that the City Clerk forward copies of these charges to each member of the Board forthwith.

Respectfully submitted,

/s/William H. Fisher, Jr.
02/21/00

REPRESENTATION FOR LT. KING:

David Mussetter represented Lt. Jack L. King.

WITNESSES QUESTIONED:

Corporation Counsel Martin questioned the following witnesses, who then were questioned by Mr. Mussetter: William H. Fisher, Jr., City Manager, and Lt. Robert W. Ratliff, Acting Captain of Ashland Police Department Patrol Division.

Mr. Mussetter questioned Lt. Jack L. King who was then questioned by Corporation Counsel Martin.

DELIBERATIONS:

The Commission went into deliberations at 6:28 PM.

RECONVENED

The meeting reconvened at 6:40 PM.

VERDICT:

Motion was made by Stewart, seconded by Dickinson, that a reprimand be placed in Lt. King's personnel file and that final comments be placed in the official record. Upon roll call, voting aye were Commissioners Dickinson, Gunderson, Stewart and Mayor

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STATEMENT BY MAYOR DUNNIGAN REGARDING VERDICT

Statement by Mayor Dunnigan:

I think we started all over the page on this thing and there was some sentiment for some time off but I think what it comes down to we agreed to was that we clearly believe in the chain of command that is so important to any organization that you stay within the chain of command. We think and obviously he agreed that he went outside the chain of command. We do however feel in this case that maybe it wasn't exactly clear what the ordinance was trying to say. What we decided in this case, what we agreed to vote on is that order that a reprimand be placed in Lt. King's personnel file. That the proper staff go back and review all these related ordinances to the chain of command with all the officers to make sure that it is not misunderstood. I think we all agree up here that we will not look kindly on this happening again outside the chain of command. We also feel strongly that Lt. King is a good officer. We do not want that reprimand to affect his progress within the Police Department.

Statement by Commissioner Dickinson:

Reprimand should not affect his future for promotions or anything of that nature.

Statement by Commissioner Stewart:

I would also like to make it clear that while in instances like this concerning departmental matters that we expect our officers to do it in the chain of command. That in no way are we looking for a "gag order" on our officers.

ASHLAND BOARD OF CITY COMMISSIONERS

In re: Lt. Jack L. King

DECISION

On February 21, 2000 the City Manager brought charges against Lt. King for violation of Rules and Regulations and a General Order of the Police Department. By agreement of the parties the hearing was held before the Ashland Board of City Commissioners on April 26, 2000.

Present at the hearing were Commissioners Dickinson, Gunderson and Stewart and presiding Mayor Dunnigan. Also present were the City Clerk, City Manager, Police Chief, Lt. Robert Ratliff, Corporation Counsel and Lt. King with his counsel, David Mussetter. Absent was Commissioner Reeves.

After hearing the proof offered by the parties and the Board being otherwise sufficiently advised;

IT IS HEREBY DETERMINED that Lt. Jack L. King shall be and is hereby reprimanded for the action described in the charges filed by the City Manager. The reprimand shall be placed in Lt. King's personnel file, but shall not be considered should he apply for any promotion in the future.

This action was taken by a 4-0 of the Board.

This the 4th day of May, 2000.

/s/A. R. Dunnigan
Mayor

CALLED MEETING APRIL 26, 2000
ADJOURNMENT

ADJOURNMENT

Mayor Dunnigan declared the meeting adjourned at 6:43 PM.

A.R. DUNNIGAN, MAYOR

ATTEST:

DEBORAH D. MUSSER
CITY CLERK